Remarks

I. Status of claims

Claims 1-27 were pending. Claims 28-30 have been added.

II. Claim rejections

The Examiner has rejected claims 1-27 under 35 U.S.C. § 102(b) over Schneck (U.S. 5,933,498). In her rejection of each claim, the Examiner has copied the elements of the claim verbatim followed by a general citation to the entire Summary section of Schneck (col. 6, line 48 – col. 8, line 58).

For the purpose of the following discussion, the Examiner is reminded that "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly" (MPEP § 706.02(a)).

A. Claims 1-11 and 21-27

Claim 1 is an independent claim and claims 2-11 and 21-27 depend from claim 1.

1. Independent claim 1

Claim 1 has been amended and now recites that the controller is configured to authorize wireless transmission of a transfer file to a third party device based upon meta-data associated with the particular digital content , wherein the transfer file includes meta-data containing permissions information controlling rendering of the particular digital content by the third party device. Schneck does not teach or suggest such a feature. Indeed, with respect to secondary distribution, Schneck teaches that only the primary distribution data, not the associated rules, may be transmitted from a user's system to a third party recipient system (see, e.g., col. 25, lines 49-67). The primary distribution data may be transmitted as an unencrypted copy or an encrypted copy. If an encrypted copy of the primary distribution data is transmitted to a recipient, "the recipient must then negotiate permissions in order to use

[it]" (col. 25, lines 59-60). That is, the user's system cannot transmit permissions information to a recipient system.

For at least these reasons, the Examiner's rejection of independent claim 1 under 35 U.S.C. § 102(b) over Schneck should be withdrawn.

2. Claims 2-11 and 21-27

Each of claims 2-11 and 21-27 incorporates the features of independent claim 1 and therefore is patentable for at least the same reasons explained above. Claims 4, 6-10, and 21-28, and 30 also are patentable for the following additional reasons.

Claim 4 recites that the controller is configured to confirm a user license based upon a comparison of a user identifier embedded in the meta-data associated with a given digital content with a user identifier stored in the memory. Schneck's system does not confirm a user license based upon such a comparison. To the contrary, in Schneck's approach, a user is granted access to a protected dataset based on whether or not rules permitting access to the dataset are "present, available, and valid" (col. 18, line 23). If such rules are found by the access mechanism 114, access to the dataset is provided – no comparison of user identifiers is performed by Schneck's system to confirm a user license.

Claim 6 incorporates the features of claim 4 and therefore is patentable for at least the same reasons. Claim 6 also recites that the controller is configured to enable playback of only a sample of the digital content in response to a failed user license confirmation. Schneck does not expressly or impliedly teach such a feature. Indeed, in accordance with Schneck's access control scheme, playback of protected data is entirely disabled in response to a failed user license confirmation (see, e.g., col. 18, lines 32-43).

Claim 7 recites that the controller is configured to direct received digital content selectively to unrestricted memory storage or to restricted memory storage based upon a user license confirmation. Schneck does not expressly or impliedly teach such a feature. Indeed, in Schneck's approach, all digital content is stored in restricted memory storage regardless of whether a user license is confirmed or not.

Claim 8 incorporates the features of claim 7 and therefore is patentable for at least the same reasons. Claim 8 also recites that the controller is configured to direct licensed digital content to unrestricted memory storage and to direct unlicensed digital content to restricted

memory storage. Schneck does not expressly or impliedly teach such a feature. Indeed, in accordance with Schneck's access control scheme, both licensed and unlicensed digital content is handled in the same way.

Claim 9 incorporates the features of claim 7 and therefore is patentable for at least the same reasons. Claim 9 also recites that the controller is configured to restrict storage of unlicensed digital works to a predetermined quantity. Schneck does not even hint that a controller of a portable media device could be configured to restrict storage of unlicensed digital works to a predetermined quantity. Indeed, Schneck does not teach or suggest anything about limiting the quantity of digital works (whether licensed or unlicensed) that can be stored in a system.

Claim 10 incorporates the features of claim 7 and therefore is patentable for at least the same reasons explained above.

Claim 21 recites that the controller is configured to control wireless transmission and rendering of a particular digital content based upon a comparison of a user identifier embedded in meta-data associated with the particular digital content with a user identifier stored in the memory. As explained above, Schneck's system does not confirm a user license based upon such a comparison. To the contrary, in Schneck's approach, a user is granted access to a protected dataset based on whether or not rules permitting access to the dataset are "present, available, and valid" (col. 18, line 23). If such rules are found by the access mechanism 114, access to the dataset is provided – no comparison of user identifiers is performed by Schneck's system to confirm a user license.

Claims 22-24 incorporate that features of claim 21 and therefore are patentable for at least the same reasons.

Claim 25 recites that the controller is configured to assemble a transfer file comprising an encryption key for decrypting encrypted digital content, to encrypt the transfer file with an encryption key received from a second portable media device, and to cause the encrypted transfer file to be transmitted wirelessly to the second portable media device. Schneck does not expressly or impliedly teach such a feature. Schneck teaches that only the primary distribution data, not any encryption keys, may be transmitted from a user's system (see, e.g., col. 25, lines 49-67). The primary distribution data may be transmitted as an unencrypted copy or an encrypted copy. If an encrypted copy of the primary distribution data is transmitted to a recipient, "the recipient must then negotiate permissions in order to use

[it]" (col. 25, lines 59-60). That is, the user's system cannot transmit encryption keys to a recipient system.

Claim 26 recites that the controller is configured to change a license status identifier associated with a particular digital content from unlicensed to licensed in response to a determination that a content identifier associated with the particular digital content matches a content identifier stored in the memory and corresponding to a previously licensed digital content file. Schneck expressly teaches that, in his approach, the "system denies the user direct access to manipulate the permissions list" (col. 23, lines 64-65).

Claim 27 recites that the controller is configured to transmit a user identifier assigned to the portable media device to a license manager after each transmission of digital content information from the portable media device to one or more other devices. Schneck does not even hint that a user identifier is transmitted to a license manager after each transmission of digital content information from the portable media device to one or more other devices.

Regarding claims 28 and 30, Schneck does not expressly or impliedly teach anything about encrypting a transfer file with an encryption key received from a third party device and authorizing wireless transmission of the transfer file from a portable media device to the third party device, as required by these claims.

For at least these additional reasons, the Examiner's rejection of dependent claims 4, 6-10, and 21-28, and 30 under 35 U.S.C. § 102(b) over Schneck should be withdrawn.

B. Claims 12-20

Claim 12 is an independent claim and claims 13-20 depend from claim 12.

1. Independent claim 12

Claim 12 has been amended and now recites that the license manager is configured to allocate an incentive to a first user of a portable media device licensed to transmit a particular digital content in response to receipt of an indication of a purchase of a license for the particular digital content by a second user of a portable media device who received a copy of the particular digital content from the first user. Schneck does not teach or suggest such a

feature. Indeed, Schneck does not teach or suggest anything about allocating an incentive to a user.

For at least these reasons, the Examiner's rejection of independent claim 12 under 35 U.S.C. § 102(b) over Schneck should be withdrawn.

2. Claims 13-20

Each of claims 13-20 incorporates the features of independent claim 1 and therefore is patentable for at least the same reasons explained above. Claims 17-20 also are patentable for the following additional reasons.

Claim 17 recites that a licensed distributor is configured to transmit to one or more portable media devices meta-data associated with broadcasted digital content and containing an embedded distributor identifier. Schneck does not expressly or impliedly teach such a feature. Indeed, none of the rules fields described in Schneck's approach contains an identifier of a distributor (see, e.g., FIG. 3).

Claims 18-20 incorporate the features of claim 17 and therefore are patentable for at least the same reasons.

For at least these additional reasons, the Examiner's rejection of dependent claims 17-20 under 35 U.S.C. § 102(b) over Schneck should be withdrawn.

III. Conclusion

For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,

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